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BOOK REVIEWS.

DAS INTERNATIONALE CIVILPROZESSRECHT AUF GRUND DER THEORIE, GESETZGEBUNG UND PRAXIS. By Dr. F. Meili, Professor of Private International Law at the University of Zurich. First part, Zurich, 1904. pp. 176.

In this work Professor Meili has begun a complement of his handbook on *International Civil- und Handelsrecht*, published in 1902. The inspiration for the task evidently comes from the beginnings of an European Code of Private International Law made by the Hague Conferences of 1893, 1894 and 1900, of which he was an active member. These Conferences, he truly says, open a new era in the development of law, (p. 25), and the remark is coupled with an expression of personal regret that Anglo-American jurisprudence was deemed without their sphere of inquiry. There were, however, quite good reasons for excluding it. Legal reforms must begin slowly and prove their merits in practice, before they can gain a sure foot-hold. At the second Pan-American Congress held in Mexico in 1901-2, a project was approved for an immediate attempt at the codification of the whole body of International Law, public and private, by a commission of five American and two European jurists. This is a thoroughly Latin-American proposition. The two projected codes will very possibly be constructed, and no nation will ever adopt either of them. The Hague Conferences proceeded on more practical lines, but their own work has proved unsatisfactory in many particulars to some of the governments whose delegates participated in it, and a fourth one is to be held next May to revise all the conventions.

Dr. Meili sides with those who assert that in modern international law it is a matter of right that foreigners be allowed to sue in court, even against a native citizen (p. 68), provided the subject-matter is not one which public policy excludes from judicial consideration. The Anglo-American exclusion of alien enemies he regards as a peculiarity of local practice (p. 78). Foreign corporations he would admit as fully as natural persons, provided they are empowered to sue in their home courts, and the law of the sovereign, by whom the court where they seek relief is commissioned, does not forbid it. Their right, however, is not one founded on natural justice, but rather on treaty and modern usage (p. 86). In applying this principle, a decision is cited, by the appellate court of Rouen in 1901 (p. 91), holding that although, under the present laws of France a French religious association, existing without authority from the government, may not be a competent suitor, no such incapacity attaches to a foreign religious association. If that can sue at home, it can sue abroad, for its personal status goes with it everywhere. A Swiss decision is cited to the effect that in a country where no domestic religious association of a certain kind can be authorized at all, no foreign religious association of that kind can have a *locus standi* in court. This judgment came from a court of first instance in Geneva, and it may be doubted if it is well founded. A Swiss canton might well de-

cline to allow corporations of a particular character to be formed within its limits as permanent inhabitants, without meaning to deny to such corporations, organized where it is lawful to form them, the right to contract with or to receive gifts from its own citizens. If such a denial is intended, the interests of citizens and foreigners alike demand that it should be plainly and unequivocally expressed.

Dr. Meili, in view of the modern rule that a foreign law is a fact to be proved like any other, urges the adoption of such methods of proof as will give better certainty to litigants, and favors the position of the Institute of International Law that it should not be left to the initiative of the parties (p. 141). The Judge should know it and declare it, as is done in each Swiss canton with respect to the laws of any other of them (p. 146). To facilitate this all nations should communicate their laws to each other in some formal way.

He gives at length the schemes for accomplishing this framed by the Institute of International Law in 1891 (p. 163), and by the Hague Conference of 1900 (p. 174), but is not very sanguine as to the general adoption of either, if we may judge from the history which he recalls, in that connection (p. 173), of the Berne Congress of 1894 to secure prompt and authentic information as to the provisions of treaties. The Institute started that movement. Circular letters were sent out by it to all civilized governments. Favorable responses were received from many. Switzerland convoked the Conference desired, and presented a formal scheme for a convention. Sixteen powers sent delegates; many others expressed sympathetic interest. The sessions lasted a week. The *avant-projet* of Switzerland was favorably considered, and the result expressed in the final *Schlussprotokoll* communicated to the various governments. But as Professor Meili sadly observes, the net results of all this were absolutely nothing, but a few fine speeches.

This first part of his work is a general introduction to the whole subject, and is to be followed by particular chapters concerning pleadings on both sides of a case, jurisdiction, evidence, judgment and execution. His style is clear, and much of his matter fresh. The arrangement of topics is well ordered, and the bibliographical references particularly valuable.

SIMEON E. BALDWIN.

DAS AMERIKANISCHE BÜRGERRECHT. By Dr. Burt Estes Howard Leipzig: Duncker & Humblot. 1904. pp. x, 155.

The question of American Citizenship: its essentials and the rights that flow from its possession, is the subject of Dr. Howard's thesis. Were it the work of a German by birth and education, it would be a truly remarkable monograph; as the work of an American student in Germany it retains value by reason of its intrinsic worth and renders a distinct service to the German public. There is nothing of the kind in German within such narrow compass and it is perhaps not too much to say, that there is no available German treatise, which gives clearly and accurately the American point of view.

The monograph is divided into two general parts dealing respectively with the mooted questions of Federal and State citizenship (pp. 4-61) and the individual and constitutional rights of the Amer-